IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 22262 of 2004

Between:

M/s.Sirpur Paper Mills Ltd., rep.by its General Manager, (Raw Materials)
Regd office:5-9-22/1, 1st Floor Adarshnagar, Hyderabad-063.

..... PETITIONER

AND

1 The Principal Secretary, Forests, Environment and Science and Technology, Secretariat Buildings, Hyderabad.
2 The Principal Chief Conservator of Forests, Govt. of A.P.,

Tuljaguda Complex, Moazzamjahi Market,
Hyderabad.
3 The Conservator of Forests, Adilabad circle, Adilabad District.
4 The Divisional Forest Officer, Kagaznagar Division, Sirpur Kagaznagar, Adilabad District.
5 The State Bank of Hyderabad, Sirpur-Kagaznagar,

rep.by its Branch Manager.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of a writ of Mandamus declaring the proceedings R.C.No.1986/91/S.6 dated 30-11-2004 issued by R.4 to R.5 as illegal, arbitrary and violative of Article, 14 and 300-A of the Constitution of India and consequently restrain R.5 from taking any action pursuant to the same by remitting the proceeds covered by Special Deposit Spl/ 8-0316779 of face value Rs.69,17,501/- in the name of "DFO SKZR A/C SPM Limited" to R.4.

Counsel for the Petitioner: MR.M.KRISHNA MOHAN RAO

Counsel for the Respondents: GP FOR FORESTS

The Court made the following:

ORDER: (Per Hon'ble Sri Justice M.H.S.Ansari)

Heard learned counsel for the respective parties.

This is a second round of litigation when the writ petitioner has approached this Court.

Earlier, the petitioner herein filed W.P.No.3078 of 1996 questioning the demand for payment of Rs.1,35,67,427/- inclusive of penal interest up to 30.11.1995. The said amount represents the minimum royalty for the lease years 1978-79, 1983-84, 1984-85 and 1988-89. The said demands were raised by an order dated 16.12.1995, impugned in that writ petition, whereby the petitioner was informed that his representation for withdrawal of the demand for minimum royalty made by the Divisional Forest Officer, Sirpur Kagaznagar, was rejected.

In the said writ petition, the Court was of the view that it would not be proper for it to embark upon an investigation into the disputed facts having regard to the limitations under Article 226 of the Constitution of India. It was also opined, as can be seen from the order dated 28.3.1997, that it would be unjust to take resort to coercive process even before the matter was finally decided by the Government. The

writ petition was, accordingly, disposed of with the direction as under:

> "We are inclined to stay the enforcement of the demands for the years 1978-79, 1983-84 and 1988-89, subject to the condition that the amount of Rs.32,65,485/- demanded for the year 1984-85 is deposited with the Divisional Forest Officer concerned, within a period of six weeks from today, without prejudice to the respective contentions. In passing this conditional order, we have taken note of the fact that as far as the year 1984-85 is concerned, large area was left unfelled as per the data available on record. Of course, we do not want to express any definite view whether any genuine reasons beyond the control of the petitioner, which could fall within the parameters of the contractual terms, are there for such failure to exploit the full potential. Ultimately, it is for the Government to decide the dispute for the year 1984-85 as well. We also direct the Government-second respondent to give a hearing to both the parties i.e., the petitioner as well as the departmental authorities before rendering their decision."

It is not disputed before us that the matter is pending before the State Government, namely, the Principal Secretary, Forests, Environment and Science and Technology, Government of Andhra Pradesh, and no orders have been passed thereon.

The cause for filing the instant writ petition is a letter Rc.No.1986/91/S.6 dated 30.11.2004 addressed by the Divisional Forest Officer, Kaghaznagar, to the Branch Manager, State Bank of Hyderabad, Kaghaznagar, requesting him to remit the amounts lying in deposit.

It is the contention of the learned counsel for the petitioner that in terms of orders disposing of W.P.No.3078 of 1996 the Government authorities are required to pass orders and even before such orders are passed steps are being taken to collect monies lying in deposit with the Branch Manager, State Bank of Hyderabad, with which the same was deposited pursuant to and in compliance with the orders of this Court in W.P.No.3078 of 1996.

The learned Government Pleader for Forests submitted before us that in terms of the orders in W.P.No.3078 of 1996 the petitioner was

required to deposit the amount with the Divisional Forest Officer, instead the petitioner furnished fixed deposit receipt and the same is not in consonance with the orders of this Court.

The matter would have merited consideration, had such fact been brought to the notice of this Court immediately when the petitioner submitted F.D.R., to the Divisional Forest Officer, instead the 4th respondent has taken upon itself seven years to raise this question by directly asking the bank to remit the amount covered by the F.D.R.

We are not inclined at this distance of time to go into the question as to whether there was proper compliance with the direction of this Court. Suffice it to say, the F.D.R was accepted by the Divisional Forest Officer seven years back in 1997 without any objections.

However, keeping in view that the State Government – 2nd respondent in W.P.No.3078 of 1996, is yet to dispose of the matter in terms of the directions given in the said writ petition and also keeping in view that no period was fixed by the Court for disposal of the representation and passing of orders by the State Government, we dispose of the instant writ petition with directions as under:

1. The State Government shall dispose of representation pending before it in accordance with law and in compliance with the principles of natural justice i.e., after giving hearing to both parties i.e., the petitioner as well as the departmental authorities within a period of six months from the date hereof. Until such time, no steps shall be taken by respondents to encash the F.D.R.

2. The amount covered by the F.D.R., in deposit with the State Bank of Hyderabad, Kaghaznagar, shall remain with the bank and be payable subject to final orders that may be passed by the State Government.

In the result, the writ petition stands disposed of with directions as above.

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(M.H.S.ANSARI, J.)

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(T.CH.SURYA RAO, J.)

02.03.2005

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To

1 The Principal Secretary, Forests, Environment and Science and Technology, Secretariat Buildings, Hyderabad.
2 The Principal Chief Conservator of Forests, Govt. of Andhra Pradesh,

Tuljaguda Complex, Moazzamjahi Market, Hyderabad.
3 The Conservator of Forests, Adilabad circle, Adilabad District.
4 The Divisional Forest Officer, Kagaznagar Division, Sirpur Kagaznagar, Adilabad District.
5 The Branch Manager, State Bank of Hyderabad, Sirpur-Kagaznagar,

Adilabad District.

6. 2 copies to the Govt. Pleader for Forests, High Court Buildings,

Hyderabad (O.U.T.)

7. 2 C.D. copies.